

**Town of Foxborough
Conservation Commission Minutes
October 28, 2013**

Members Present: Robert Boette (Chair), Eric Nelson (Clerk), Judith Johnson, James Marsh and Valerie Marshall
Members Absent: Allan Curtis (Vice Chair) and Douglas Davis
Staff Present: Jane Sears Pierce, Conservation Manager
Others Present: See attached sign-in sheet

Meeting Opened

Bob Boette opened the meeting, held in the McGinty Room, Public Safety Building, at 7:03 p.m.

36 Ridge Road

Information Reviewed: RFD received 10/24/13

Jane Pierce reviewed her recent discussions with homeowner, Michael Eisenhauer, regarding a swimming pool that he planned to install in his back yard. He previously received an Order of Conditions for the installation of a garage and swimming pool, but had proposed only the general size and location of the pool. During the project's hearing Mr. Eisenhauer was told that if wanted to build a pool in the future, he would need to submit a final design plan for their review and approval.

Jane explained that she had assumed that only a Partial Certificate of Compliance had been issued, so had asked Mr. Eisenhauer to submit his final pool plan for the Commission's approval. The DEP #157-483 filing's erosion control line was used as the limit of work for the current design. Unfortunately, after closely inspecting the DEP #157-483 file, Jane found that a CoC had been issued and the file was closed.

Since Mr. Eisenhauer had scheduled the pool's installation, Jane asked him to file a RFD and come to the meeting to ask for the Commission's permission to start his project and review his RFD after the fact. The RFD was filed, and the Commission quickly reviewed the proposed plan.

Mr. Eisenhauer explained that the pool had been redesigned and pulled back an additional five feet (inland) from the previously approved erosion control line. The proposed drywell wouldn't be needed, since a salt filtration system was now proposed, which did not require backwashing. No off grading would occur on the reservoir side of the pool, since a stone retaining wall was proposed along the water side edge of the pool. The pool was proposed for an area that is currently impervious; they would also be cutting back some of the (current) adjoining patio's impervious area. Mr. Eisenhauer explained that the gunnite pool's shell needed to be in the ground and cooling as soon as possible and was scheduled to start in two weeks.

The Commission discussed the proposed plans, which were essentially that same as what had been reviewed during the (DEP #157-483) NOI hearing. All were satisfied with the proposal and said that construction could start after Jane had inspected the erosion controls. The RFD was scheduled to be formally reviewed during the Commission's next meeting on November 18, 2013.

76 Ridge Road, Request for Determination

Bob opened the hearing by reading the legal notice, as posted in the Sun Chronicle and the Foxboro Reporter. The Applicants representative, Bill Buckley of Bay Colony Group, offered to wait to start the project's review, since a resident had been waiting to speak to the Commission about ATV issues on conservation property near his home.

ATV Issues at Willow Street Conservation Property

Steve Krug thanked Mr. Buckley and then described the ATV issues he had been observing on conservation land near Willow and East Streets (motorized vehicles are not allowed on Foxborough

conservation properties). Mr. Krug told the Commission that every weekend after 10:00 and after school, teenagers are out riding ATVs near his home on Patty Joe Lane. He said that several ATVs, currently kept at 152 East Street, are driven by the teens from that location to the railroad tracks, finally entering conservation land by Greely's Pond and also via the concrete bridge under the power lines on East Street. He has called the environmental police, town police and the railroad, to no avail. The police have come down, but have been unable to catch them. Mr. Krug indicated that recently an Acela train had hit one of the ATVs that were driving down the tracks, but the teen that was riding on it had hopped off before the train hit it and he wasn't hurt or caught.

Mr. Krug stressed his extreme frustration with ATV activity and noise, adding that he hunts on the conservation land and just wants to have some peace and quiet. Judi Johnson, who lives on Willow Street, agreed that ATVs are a nuisance in that area. Both she and her husband have spoken to kids riding ATVs in the area, including one who rides a particularly loud ATV without a muffler. She believed that neighbors in the area are afraid to say anything because they fear repercussions.

Mr. Krug asked if he could disassemble several bridges that ATVer's had installed to access the woods off East Street (near his house) and was told that he could. He described his thoughts on how the Commission might deal with ATV issues, including:

1. Blocking access to conservation areas, particularly near the bus turnaround under the power lines on Willow Street where a stone wall has been disassembled to allow ATV access.
2. Installing surveillance cameras at the entrance to blocked access points; photos could "capture" the kids when they get off their ATVs to disassemble the walls.
3. Letting parents know about the problems via the Foxboro Reporter or Chronicle (TV show).

The Commission discussed how to deal with this issue and Jane reminded them that they had reviewed this same issue a year ago. At that time, she had included information about how the State DFW had been handling similar issues. They had positive results after sending letters to abutters and posting "no ATV" signs. The Commission thought that this should be pursued and asked Jane to work with Conservation Secretary, Lee Ann, to tackle this project, as discussed last year.

76 Ridge Road, Request for Determination

Information Reviewed: RFD received 10/1/13

The Applicant's representative, Bill Buckley of Bay Colony Group, was present to review the proposed project; Applicant, Andrew Felix, was not present. Mr. Buckley reviewed the project's proposed replacement of a failed cesspool with a Title 5 septic system; a two bedroom restriction will be added to the property's deed. They have gone before the Board of Health and have received the waivers that are listed on the project's plan. There will be no stockpiling; extra dirt will have to be removed from the site. Mr. Buckley pointed out that #1 of the plan's "leaching system notes" should be removed, since it is not applicable. He will revise the plan, removing #1 and adding "all excess material to be removed from site and not stockpiled."

Motion was made by Eric Nelson to issue a Negative Determination (checking #3 and #6) for 76 Ridge Road, adding the conditions that "(a) all excess materials are to be removed from the site and not stockpiled on-site; and (b) erosion controls must be reviewed and approved by the Conservation Agent prior to the start of construction" as discussed; seconded by James Marsh.

Vote: 5:0:0

50 Granite Street, Request for Determination

Information Reviewed: RFD received 10/07/13

Bob opened the hearing by reading the legal notice, as posted in the Sun Chronicle and the Foxboro Reporter. Applicants Paul and Ellen Greiner were present to review their proposed project which involved the removal of 11-plus trees from the east and west sides of the driveway.

Mrs. Greiner explained that most of the trees slated for removal were next to the property's power lines and were flagged with yellow tape. They want to remove the trees for safety purposes and want to put a gas line down the side of the driveway in the future. A gas line down can't go through the center of the driveway, since their water line zigzags back and forth under the driveway's length, so they wouldn't have a "straight shot." They also want to raze their garage and build another garage in the area that currently has a large American sycamore tree (to be removed under the RFD).

Ms. Greiner stated that she had her property delineated last August by Natural Resource Services, who indicated that the wetland next to the driveway was "disputable" (i.e. may be too small to be jurisdictional under the Act). The Commission explained that she would need to have the delineation formally approved by filing an ANRAD. Jane added that the "disputable" wetland would probably be covered under Foxborough's Wetland Bylaw.

Judi advised that she visited the site earlier in the day to observe the trees proposed for removal and had no problems with the removal of the site's Norway maples. She explained that it is difficult to tell the difference between Norway maples (invasives) and sugar maples in Fall and Winter. Judi noted that the understory is covered by invasive species, explaining that when the tree canopy is opened (i.e. trees cut down), invasive plants flourish. She wanted the Greiner's to understand that cutting their trees would cause the invasives to take over the area. She offered to help the Greiners with invasive plant identification on their property. When asked about stump grinding, Mrs. Greiner stated that they are not grinding the stumps.

Both Judi and Jane did not like to see American sycamore trees (native trees) cut down. Bob agreed, asking whether they could wait to remove the sycamore until they had a final plan for the garage. Mrs. Greiner indicated that they could not.

Motion was made by Eric Nelson to issue a Negative Determination (checking #3 and #6) for 50 Granite Street, adding the conditions that "(a) notify Conservation Manager before work starts; (b) the Determination only approves the cutting of the trees marked on-site with yellow flagging tape; (c) there will be no stump grinding; and (d) the wetland line is not approved by the Determination" as discussed; seconded by James Marsh. **Vote: 5:0:0**

78 Prospect Street, Request for Determination

Information Reviewed: RFD received 10/09/13

Bob opened the hearing by reading the legal notice, as posted in the Sun Chronicle and the Foxboro Reporter. The Applicant's representative, Michael Trowbridge of Hutchins-Trowbridge Assoc. Inc., was present to review the proposed project; Applicants Juanita and John Johnston were not present.

Mr. Trowbridge reviewed the proposed septic repair, explaining that the repair/replacement (they are not expanding the system) would be in the same location as the current system, since a pump system would be needed if it were in the (higher elevation) front yard. Stockpiles would be temporary and taken off site. Mr. Trowbridge reported that they had received a variance for their proposed plan from the Board of Health, earlier in the evening.

Motion was made by Valerie Marshall to issue a Negative Determination (checking #3 and #6) for 78 Prospect Street; seconded by Judi Johnson. **Vote: 5:0:0**

High School Ball Fields, DEP #157-511

Jim DeVellis came to the meeting to discuss issues that he had encountered during construction of the High School ball fields. He explained that the plans (done free of charge by Bill Buckley, Bay Colony) had not indicated where the stone wall on the SW boundary of the property was located, so he had assumed that it was the actual property boundary as is usually the case in New England. However, when the area was resurveyed for the actual field construction, they discovered that the stone wall was 37 feet *inside* of the property line. He tried to find a way to squeeze everything in (without touching the 25 foot no disturb zone [NDZ]), but was unable to do so without having

spending an additional \$5K+, so he met with Jane to discuss his proposed revision. The revised plan extended construction activities 18 feet towards the wetlands, cutting into a small corner of the 25 foot NDZ (in the far SE corner); the increase in disturbance would be approximately 1,200 square feet. Mr. DeVellis submitted a letter for the file including (1) a brief review of the proposed changes, (2) square foot calculation of proposed 25 foot NDZ alteration, and (3) proposed mitigation. Mitigation would include installing a stone wall along the edge of the disturbed area and large boulder bounds along the resource area side of the project to prevent future encroachment.

Judi reviewed the proposed plan revisions and asked whether the detention area (SE corner, closest to wetlands) could be moved out of the 25 foot NDZ. Mr. DeVellis stated that he would do this.

Motion was made by Valerie Marshall to approve the minor modifications for the High School ball fields, DEP #157-511, including Jim DeVellis' letter and plans with slight modifications, including the installation of a stone wall and stone bounds as "insignificant" per Condition #22(a) of their Order of Conditions; seconded by Judi Johnson. **Vote: 5:0:0**

Eric Nelson left the meeting at this point.

Continued Hearing, Regulations for Foxborough's Wetland Bylaw (Article IX)

Jane was asked to send the Commission digital copies of the revisions (in red) that were voted for during the previous meeting. The hearing was continued to the following meeting.

Motion was made by Valerie Marshall to continue the hearing to the Commission's next meeting on November 18, 2013; seconded by Judi Johnson. **Vote: 5:0:0**

Conservation Rental Properties Update

Jane reviewed her Manager's Report, with activity updates since the previous meeting. She reported that she tried to meet with Bob Cutler about the revised RFP that Val drafted for 120 Spring Street, but was only able to speak to him briefly last Wednesday. Their scheduled meeting for Thursday with Randy was cancelled, since Randy was out sick. Repairs to date are listed below.

89 North Street

1. *Electrical:* Webber Electric has completed all of the required electrical repairs.
2. *Plumbing:* Bill Murphy has repaired all of the plumbing.

120 Spring Street

1. *Electrical:* Webber Electric has completed all of the electrical repairs.
2. *Plumbing:* The plumbing work is finished.
3. *Carpeting:* A quote for \$1,383 to install carpet in the bedrooms and hall has been received.
4. *Oil Heating:* Lee Ann called to set up a PM for the boiler and have 100 gallons of oil delivered.

Jane reported that she spoke to Bob and Randy by phone on the previous Friday to discuss outstanding issues. Randy told Jane that the Hersey Farm account (~\$5K) could not be used to pay for house repairs, advising her that there were no funds to pay for Spring Street repairs (to prepare for renting the house). Jane told Randy that 100 gallons of oil had been ordered for Spring Street (to keep the house warm until rented), which he said could be paid out of the gasoline expense fund.

Randy stressed that there could be "no more spending on anything." Bob C. reiterated "No RFP right now and no more work."

The conservation property subcommittee decided that they should meet before the Commission's next meeting to discuss how to proceed. Val asked to add a discussion about rental properties to the next agenda.

10 Montgomery Road (Lot 8), DEP #157-420, Durham Park Subdivision, Partial CoC

Jane explained that this PCoC was administrative only, since there are no resource areas on this lot, and recommended issuing the PCoC that she had drafted.

Motion was made by Valerie Marshall to issue a Partial Certificate of Compliance for DEP #157-420, 10 Montgomery Road (Lot 8); seconded by Judi Johnson. **Vote: 5:0:0**

Meeting Adjourned

Motion was made by Valerie Marshall to adjourn; seconded by Jim Marsh. **Vote: 5-0-0**

The meeting adjourned at 9:38 p.m.

Respectfully submitted,

Eric Nelson, Clerk

Draft minutes submitted by Jane Pierce: 11/5/13

Approved by Commission: 12/2/213

Documents, Not Referenced Above, Reviewed During Meeting

Attached Documents:

1. Agenda, October 28, 2013
2. Meeting Sign In Sheet

Location of Other Documents:

3. Manager's Report, filed in Manager's Report binder in Conservation Commission's office.
4. Referenced projects' documents: please see Conservation Commission's project file